

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:06CR195.2
	§	
JOHN WESLEY JOHNSON	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 6, 2014, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Camelia Lopez.

On February 26, 2007, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 60 months imprisonment followed by a three-year term of supervised release for the offense of Carrying a Firearm During a Drug Trafficking Crime or Possessing a Firearm in Furtherance of a Drug Trafficking Crime. Defendant began his term of supervision on September 15, 2011.

On September 16, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 152). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not associate with any persons engaged in criminal activity,

and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; (3) Defendant shall refrain from any unlawful use of a controlled substance; (4) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On or about January 18, 2013, Defendant was arrested by the Dallas, Texas, Police Department and charged with committing the offense of Aggravated Robbery in violation of Texas Penal Code § 29.03. It is alleged that Defendant, along with Antwaunn Dismuke, Quanjanae Turner, and a juvenile male, approached an individual in a car and robbed him at gun point. Defendant and three other individuals fled in a vehicle, driven by Mr. Johnson, at a high rate of speed with a flat tire. The front passenger of the vehicle leaned out the window and fired three shots at a pursuing Dallas Police Officer. Defendant and three other individuals were later stopped and detained. As of this writing, the charge has been presented to the Dallas County District Attorney for Grand Jury Indictment and Defendant remains in custody in Dallas County; (2) As evidenced by Defendant's arrest on or about January 18, 2013, he associated with Antwaunn Dismuke, Quanjanae Turner, and a juvenile male who were engaged in criminal activity. As part of the scheme, Quanjanae Turner was dropped at a club where she asked the victim of the offense to give her a ride home. The victim transported her to the location she provided and while there Defendant and the other two individuals robbed him at gun point. The scheme indicates prior planning and deliberate association with the other individuals

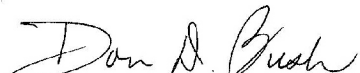
to carry out the criminal activity. Additionally, Defendant violated this condition by associating with Antwaunn Dismuke, without the permission of the probation officer, who has previously been convicted of a felony, to wit, Engaging In Organized Criminal Activity on January 20, 1999, in Case Number 3668162598 if the 366th District Court of Collin County, Texas; (3) On October 4, 2012, Defendant submitted a urine specimen that tested positive for marijuana. Defendant admitted to said use and Alere Laboratory confirmed said positive; and (4) On January 15, 2013, Defendant failed to report to Pillar Mental Health Systems, Plano, Texas, to submit a urine specimen for testing as instructed and as part of the U.S. Probation Office's random drug testing program.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 6, 2014 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirty-three (33) months to run concurrent to any other sentence, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Seagoville facility, if appropriate.

SIGNED this 18th day of February, 2014.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE